

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICA FIRST LEGAL FOUNDATION,

Plaintiff,

v.

ANTHONY COLEY, in his official capacity  
as Director, Office of Public Affairs, United  
States Department of Justice; and UNITED  
STATES DEPARTMENT OF JUSTICE,

Defendants.

Case No. 1:21-cv-03024 (TSC)

**ANSWER TO FIRST AMENDED COMPLAINT**

Defendants, United States Department of Justice and Anthony Coley, answer the first amended complaint filed by Plaintiff America First Legal Foundation as follows:

1. This paragraph consists of Plaintiff's characterization of their FOIA requests, which does not set forth a claim of relief or aver facts in support of such a claim to which an answer is required.
2. Admitted that AFL sought expedited processing for each of the requests described in Paragraph 1. Denied that Defendants denied AFL's request for expedited processing with respect to each request.
3. Denied.
4. This paragraph consists of Plaintiff's characterization of their lawsuit, which does not set forth a claim of relief or aver facts in support of such a claim to which an answer is required.

5. Denied except to admit that the Court granted Defendants' partial motion to dismiss the second count of Plaintiff's original complaint.
6. This paragraph consists of Plaintiff's characterization of a joint status report filed by the parties. Defendants refer the Court to the status report for a complete statement of its contents.
7. This paragraph consists of Plaintiff's characterization of a minute order entered by the Court in this matter. Defendants refer the Court to the status report for a complete statement of its contents.
8. This paragraph consists of Plaintiff's characterization of their amended complaint, which does not set forth a claim of relief or aver facts in support of such a claim to which an answer is required.
9. This paragraph consists of Plaintiff's conclusions of law with respect to jurisdiction, to which no response is required.
10. This paragraph consists of Plaintiff's conclusions of law with respect to venue, to which no response is required.
11. Defendants lack a sufficient factual basis to affirm or deny the allegation in this paragraph.
12. Admitted
13. Admitted.
14. This paragraph contains Plaintiff's conclusions of law as to whether Defendants are in possession, custody, and control of the requested records, to which no response is required.
15. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA request.

16. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Defendants' denial of expedited processing.

17. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA appeal.

18. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Defendants' denial of Plaintiff's appeal.

19. Defendants deny the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

20. Defendants deny the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

21. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA request.

22. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Defendants' response to Plaintiff's FOIA request.

23. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's appeal.

24. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Defendants' notice of receipt of appeal.

25. As to the first sentence, denied, as the document cited in this paragraph is a denial of Plaintiff's request for expedited determination of appeal, not expedited processing of the FOIA request. As to the second sentence, denied.

26. Defendant denies the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

27. Defendant denies the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

28. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA request.

29. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA request.

30. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's FOIA request.

31. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of OIP's acknowledgement of Plaintiff's FOIA request.

32. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for

a complete statement of the contents of OLC's acknowledgement of Plaintiff's FOIA request.

a.

33. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of CRM's acknowledgement of Plaintiff's FOIA request.

34. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of EOUSA's acknowledgement of Plaintiff's FOIA request.

35. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of CRT's acknowledgement of Plaintiff's FOIA request.

36. Denied.

37. This paragraph contains Plaintiff's characterization of documents attached to the complaint. Defendants refer the Court to the document referenced in this paragraph for a complete statement of the contents of Plaintiff's appeal.

38. This paragraph contains Plaintiff's characterization of documents attached to the complaint. Defendants refer the Court to the documents referenced in this paragraph for a complete statement of OIP's acknowledgement of Plaintiff's appeal of OIP's initial determination with respect to Plaintiff's FOIA request and OIP's denial of AFL's appeal.

39. This paragraph contains Plaintiff's characterization of documents attached to the complaint. Defendants refer the Court to the documents referenced in this paragraph for a complete statement of OIP's acknowledgement of Plaintiff's appeal of OLC's

determination and OIP's denial of AFL's appeal. To the extent a response is required, admitted.

40. This paragraph contains Plaintiff's characterization of documents attached to the complaint. Defendants refer the Court to the documents referenced in this paragraph for a complete statement of OIP's acknowledgement of Plaintiff's appeal of CRM's determination and OIP's denial of AFL's appeal.

41. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the documents referenced in this paragraph for a complete statement of OIP's acknowledgement of EOUSA's determination for Plaintiff's appeal and OIP's denial of AFL's appeal.

42. This paragraph contains Plaintiff's characterization of a document attached to the complaint. Defendants refer the Court to the documents referenced in this paragraph for a complete statement of OIP's acknowledgement of Plaintiff's appeal of CRT's determination and OIP's disposition of Plaintiff's appeal.

43. Defendants deny the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

44. Defendants deny the allegations in this paragraph, except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

45. Defendants incorporate by reference their responses to the allegations in paragraphs 1-44.

46. Admitted that AFL has requested records. The allegations that the request is "proper" and that the requested records are "within the possession, custody, and control of the Defendant" are conclusions of law to which a response is not required.

47. This paragraph consists of Plaintiff's conclusions of law, to which no response is required. To the extent a response is required, denied except to admit that, as of

December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

48. This paragraph consists of Plaintiff's conclusions of law, to which no response is required. To the extent a response is required, denied except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

49. This paragraph consists of Plaintiff's conclusions of law, to which no response is required. To the extent a response is required, denied except to admit that, as of December 21, 2022, the DOJ components from which records have been sought have not made a final determination as to Plaintiff's FOIA request.

50. This paragraph consists of Plaintiff's conclusions of law, to which no response is required.

51. Denied.

Paragraphs A-G of the Complaint constitutes a prayer for relief, to which no response is required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to the relief requested or to any relief whatsoever.

Each and every allegation of the Complaint not heretofore expressly admitted or denied is hereby denied.

#### **AFFIRMATIVE DEFENSES**

1. Defendants' actions did not violate the Freedom of Information Act or any other applicable law.

Dated: January 6, 2023

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney  
General

ELIZABETH J. SHAPIRO  
Deputy Branch Director

/s/ Michael J. Gerardi

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